

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001

REVIEW OF COMMISSION'S PRICE CAP RULES

Docket No. RM2013-2

INITIAL COMMENTS OF THE UNITED STATES POSTAL SERVICE  
(May 16, 2013)

The United States Postal Service hereby submits its initial comments on the price cap rules proposed by the Commission in this docket.<sup>1</sup> Overall, the Postal Service is pleased with the proposed rules, and believes that they bring more clarity to rate adjustment proceedings. As discussed below, the Postal Service recommends that the Commission reconsider two aspects of the rules:

- (1) The proposed rules provide that, if a rate adjustment is conducted more than twelve months after the previous rate adjustment, the portion of the rate adjustment authority associated with the months prior to the most recent twelve months converts to "unused rate adjustment authority." This is a disincentive to waiting beyond twelve months to raise rates. Accordingly, the Postal Service requests that the Commission allow it in such cases to use the full rate adjustment authority associated with the period since the previous adjustment.

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<sup>1</sup> Notice of Proposed Rulemaking Requesting Comments on Proposed Commission Rules for Determining and Applying the Maximum Amount of Rate Adjustments, Docket No. RM2013-2 (Mar. 22, 2013).

- (2) The proposed rules require that, for purposes of calculating a percentage change in rates, the Postal Service always use historical billing determinants. The Postal Service believes that there are exceptional circumstances where it would be more appropriate to use projections of anticipated mailer behavior, and the Commission's rules should be flexible enough to accommodate such circumstances.

I. *Rate Adjustments Filed More Than Twelve Months Apart*

Under the proposed rules, if the Postal Service files a notice of rate adjustment more than twelve months after its previous notice, the annual limitation is calculated using only the most recent twelve months of CPI-U data; CPI-U data from the period preceding the most recent twelve months is used to calculate unused rate adjustment authority. Thus, the proposed rules codify the approach presented by the Commission in Docket No. R2011-1, following the Postal Service's request for guidance on calculating rate adjustment authority when more than twelve months had passed since the previous notice of rate adjustment and there had been a period of negative CPI-U.<sup>2</sup> The Postal Service requests that the Commission reconsider that approach.

In the present context, where there is negative unused rate adjustment authority that must be used (or must expire) before positive unused rate adjustment authority may be used, the Commission's approach would effectively force the Postal Service to raise prices at least every twelve months, even when it would be more efficient to wait longer than twelve months. This dynamic would obtain in another context as well, namely, when inflation is high enough that waiting beyond twelve months to adjust rates

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<sup>2</sup> Letter from R. Andrew German to Shoshana Grove Regarding Available CPI-U Authority (Oct. 6, 2010).

would lead to there being more than two percent of unused rate adjustment authority. Combined, the possibility of either of the above circumstances – negative unused rate adjustment authority, or high inflation – means that, during many periods, the Commission’s approach would force the Postal Service to raise rates even when waiting would be more efficient and customer-friendly.

The Commission’s approach appears to be premised on an overly literal reading of Section 3622(d)(1)(A), which refers to “the most recent available 12-month period.” The Postal Service notes that this language has not prevented the Commission from providing for a partial year calculation when a notice of rate adjustment is filed less than twelve months after the previous notice, even though a strictly literal reading of the provision would seem to preclude rate adjustments less than twelve months apart.<sup>3</sup> Moreover, in advocating the now proposed approach in Docket No. R2011-1, the Commission cited its statements from Order No. 26, where it said, *inter alia*, that “[i]f the Postal Service can delay imposing increases on the public, it should not be penalized.”<sup>4</sup> This is precisely what would happen under the proposed rules – the Postal Service would be penalized for delaying rate adjustments.

As an alternative, the Commission could limit calculations of unused rate adjustment authority only to rate adjustment cases in which the Postal Service chooses to forgo implementing some portion of the authority available to it. In rate adjustments filed more than twelve months since the previous notice of rate adjustment, the Commission could allow the Postal Service to use the full rate adjustment authority

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<sup>3</sup> See PRC Rule 3010.22.

<sup>4</sup> Order No. 606, Docket No. R2011-1 (Dec. 10, 2010), at 8 (citing Order No. 26, Docket No. RM2007-1 (Aug. 15, 2007), at 30-31).

associated with the period since the previous notice, while leaving it to the Postal Service's discretion whether to forgo some portion of the authority (which would then convert to unused rate adjustment authority). This approach would accord with Section 3622 while maintaining the pricing flexibility intended by the Postal Accountability and Enhancement Act (PAEA).

## II. *Billing Determinants and Anticipated Changes in Mailer Behavior*

Proposed Rule 3010.23 codifies the Commission's preference for using known (historical) mail characteristics for adjusting billing determinants for classification changes, rather than using projections of anticipated changes in mailer behavior. While this makes sense as a default approach, the Postal Service notes that, in particular circumstances, it would be more sensible to project anticipated changes in mailer behavior, and the Commission's rules should be flexible enough to accommodate such circumstances.

For example, when it proposed the Full-Service Intelligent Mail barcode (IMb) discounts in Docket No. R2009-2, the Postal Service estimated Full-Service IMb adoption rates. In the absence of such projections, the percentage changes in rates would have been calculated using a historical billing determinant period before Full-Service IMb technology had been introduced, resulting in an assumed adoption rate of zero. To avoid such a result, the Commission prudently adopted the Postal Service's use of estimates.<sup>5</sup> More recently, in Docket No. R2013-1, the Commission itself recognized a situation where using historical volumes would likely result in understating

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<sup>5</sup> This is illustrated in the Commission's workpaper "FCM Cap Calculation2009.xlsx", tab "IMb and RPW reconciliation" [sic], from library reference PRC-R2009-2-LR1, Compliance Calculations for First-Class Mail, Docket No. R2009-2 (Mar. 16, 2009).

the volume from certain promotions proposed by the Postal Service.<sup>6</sup> The Postal Service recommends that the Commission modify proposed Rule 3010.23 to grant the Commission the discretion to use projections where it believes using historical volumes would either understate volumes or otherwise be inappropriate.

### III. *Conclusion*

The Postal Service appreciates the opportunity to advise the Commission in this rulemaking.

Respectfully submitted,

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<sup>6</sup> Order No. 1541, Docket No. R2013-1 (Nov. 16, 2012), at 17 (“For the Mail to Mobile Category, the Postal Service uses actual volumes from the 2011 Mobile Barcode Promotion (July and August, 2011), which took place during the hybrid year period used in this filing. Since the volume the Postal Service uses in the cap calculation only includes one Mail to Mobile Promotion, it is likely to understate, not overstate the volume from the three promotions proposed in the Mail to Mobile category.”).